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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,116	09/22/2003	Kraig A. Kirschner	7234-117/10311003	7648
58688	7590	11/02/2006	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ LLP			LE, TAN	
P.O. BOX 2207			ART UNIT	
WILMINGTON, DE 19899			PAPER NUMBER	
			3632	

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/668,116

Applicant(s)

KIRSCHNER, KRAIG A.

Examiner

Tan Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8, 10-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 10-12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This is the third office action for serial number 10/668,116. This application contains 15 claims numbered 8, 10-12 and 14. Claims 1-7, 9, 13 and 15 have been canceled.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/11/06 has been entered.

### ***Claim Objections***

3. Claim 8 is objected to because of the recitation "the specified outside diameter" (claim 8, line 12) lacks of antecedent basis. It should be changed to -- a specified outside diameter -- Appropriate correction is required.

Claim 14 is also objected to because claim 14 depends upon a canceled claim.

To examine claim 14 on the merit, the examiner will assume that claim 14 is dependent upon claim 8.

### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8, 10-12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,998,691 to Brown in view of US Patent NO. 4,733,471 to Rahe.

As to claims 8 and 10, Brown shows a pipe clamp system as depicted on Fig. 1, which comprises a pipe of specified outside diameter; a clamp including two bars (21), each bar including a substantially hemicylindrical section (21a), a first straight section (21) on one end of the hemicylindrical section and a second straight section on the other end of the hemicylindrical section, each straight section having a through hole (7) closely spaced equidistant from the hemicylindrical section; and fasteners (12 with nuts 22) extendable through the through holes to retain the two bars together with the first straight sections juxtaposed with the second straight sections, respectively.

What Brown does not appear to express is the hemicylindrical section having radiused inside edges to prevent gouging.

Rahe teaches the inside edge of the hemicylindrical sections being radiused (114, 134) (chamfered end surfaces) (Fig. 6A, 7A for example). Rahe also admitted that such narrow chamfered surfaces are conventionally provided in devices of such generally type. It would have been obvious to provide a radiused inside edges or chamfered edges on the clamp of Brown as taught in Rahe for the purpose of preventing gouging or providing the pipe sliding in and out easily.

What Brown also do not express is the inside diameter of the hemicylindrical sections of the two bars being smaller than the specified outside diameter (of CPVC pipe) by not to exceed five percent with the first straight section juxtaposed with the

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second straight sections, respectively. Rahe also teaches such necessary support claims (col. 6, lines 24-30) to provide the right clamp member, in position, as well as fits about a part of the periphery of the tube. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the device of Brown to include ranges or tolerances as in Rahe for the purpose of providing the right clamp member which will allow the two bars will be gripped with an pressure holding enough without braking the pipe while the bolt is tightened down until the straight bars are juxtaposed and the clamp can be achieved to hold the pipe tightly.

With respect to "CPVC" pipe, CPVC is a well-known per se and commercially available material used in lightweight and durable. Accordingly, it would have been obvious to one ordinary skill in the art as a matter of engineering design choice to utilize CPVC pipe as the particular pipe because it is well-within the level of skill in the art to utilize the known features of the art for the purpose for which they are known according to its of intended use thus the selection of CPVC pipe does not produce any unexpected results and it would have been no more than an obvious matter of engineering design choice producing no new and unexpected.

With respect to the term "fragile", the term is a relative term; therefor it has no patentable significance.

As to claim 14, claim 14 recites the feature which so called "standard" which is assumably well known by ordinary skill in the art and it's obvious that any number of different standard tubes/pipes can be used since Brown in vie w of Rahe does not prevent from using it. The standard outside diameter as claimed is the specified outside

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diameter is deemed obvious over Brown in view of Rahe since the pipe of Brown in view of Rahe also appears to be the standard pipe and the standard pipe as claimed in claim 14 can be used in the device of Brown in view of Rahe.

With respect to claims 11-12, the provision of calling for the first straight section being a long straight section and the second straight section being a short straight section and the long straight sections each having an attachment hole closely spaced from the distal end thereof would have also been no more than an obvious matter of design choice since there are no additional teaching or criticalities from Applicant regarding of a long arm and short arm. This would have led a person of ordinary skill in the art to have had a reasonable expectation that any length (longer or shorter) and any attachment hole can be used at any desired location along the arms. In addition, the length of the long arm and short arm as claimed would have been a matter of choice in design since the claimed structure and the function they perform are the same as the prior art (functionally equivalent). In re Chu, Supra. See legal precedent regarding changes in sizes/proportion in MPEP 2144.04.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 8, 10-12 and 14 have been considered but are moot in view of the new ground(s) of rejection. According this action is made NON\_FINAL>

***Conclusion***

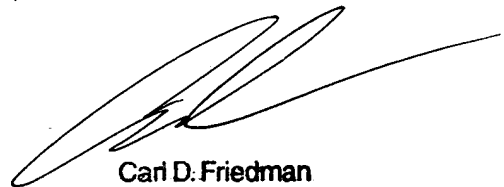
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (571) 272-6818. The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tan Le  
October 25, 2006.



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600